

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE COLUMBIA UNIVERSITY
PATENT LITIGATION

MDL No. 1592 (MLW)

This Document Relates To All Actions

**COLUMBIA UNIVERSITY'S RESPONSE TO ORDER DATED OCTOBER 4, 2004,
RELATING TO THE COVENANT NOT TO SUE**

Dated: October 5, 2004

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ATTORNEYS FOR THE TRUSTEES
OF COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK

The Trustees of Columbia University in the City of New York ("Columbia") hereby responds to the inquiry from the Court in its Order dated October 4, 2004:

If the Court determines that the Covenant Not to Sue filed by Columbia on September 1, 2004 ("Covenant"), as clarified by letters from Columbia's counsel dated September 10, 2004, and September 17, 2004, is insufficient to eliminate an actual case or controversy over plaintiffs' declaratory relief claims relating to the validity, enforceability, or infringement of the '275 patent, but that the Covenant would be sufficient to eliminate an actual case or controversy over such declaratory relief claims if the Covenant for the '275 patent as it currently reads were extended to cover any and all methods and processes used, and products made, used, offered for sale, sold, or imported by plaintiffs until the conclusion of the reissue and reexamination proceedings concerning the '275 patent currently pending before the United States Patent and Trademark Office, then Columbia is willing to extend the Covenant as provided above.

October 5, 2004

Respectfully submitted,

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW YORK

By its attorneys,

/s/ David I. Gindler

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